IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 21ST JUNE 2007 / 31ST JYAISHTA 1929

Bail Appl..No. 3589 of 2007()

CMP.2694/2007 of J.M.F.C.-I,KOZHIKODE
CRIME NO.96/2007 OF CHEVAYUR POLICE-KOZHIKODE DISTRICT

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: PETITIONER/ACCUSED

V.K.VINOD, (AGED 40 YEARS),
S/O.GOVINDANKUTTY NAIR, VELUTHEDATH KANDI,
P.O.MALAPPARAMBA, CALICUT-9.

BY ADV. SRI.M.ASOKAN
SRI.DEVAPRASANTH.P.J.

RESPONDENTS: COMPLAINANT

STATE OF KERALA,
REPRESENTED BY S.I. OF POLICE,
CHEVAYUR POLICE STATION,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 21/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.3589 of 2007

Dated this the 21st day of June, 2007

ORDER

Application for regular bail. The petitioner faces allegations under Section 302 and 323 I.P.C. Petitioner is the nephew of the deceased. There allegedly was a boundary dispute between the sister of the accused and the deceased. In the course of an attempt to identify the boundary, there was some wordy altercation which led to the petitioner allegedly hitting the deceased with hand and kicking him with his leg. The deceased had some cardiac ailments. Unable to stand the strain, he expired. Allegations under Section 302 I.P.C are raised against the petitioner. The petitioner had come before this Court claiming anticipatory bail. That prayer was rejected, but the petitioner was permitted to surrender before the Investigating Officer on a specified date. He could not do so. But he later surrendered before the learned Magistrate on 05.06.2007. He was remanded to custody. Later the police filed an application to get police custody. That prayer was resisted, but the petitioner was permitted to be interrogated in the prison. Such interrogation is also over. The petitioner has been continuing in custody from 05.06.2007.

2. The learned counsel for the petitioner submits that the allegations, even if accepted in toto, cannot lead to any inference of

culpability under Section 302 or 304 I.P.C and at worst what is revealed is only an offence punishable under Section 323 Cr.P.C. Counsel submits that in these circumstances the continued detention of the petitioner in custody is unnecessary and unjustified. It is prayed that the petitioner may, in these circumstances, be released on bail.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that it is too early to sail to a conclusion that the offence under Section 302 or 304 I.P.C will not be revealed. Being the nephew, he must be assumed to know or imputed with the knowledge that his uncle was suffering from acute cardiac disease and that his conduct is certain to lead to the death of the deceased.

4. I shall not enter into the controversies raised. Suffice it to say that I am satisfied that bail can be granted to the petitioner subject to appropriate conditions,. I take note of the submission of the learned Public Prosecutor that the deceased and the petitioner are neighbours and relatives and continued presence of the petitioner in the locality is likely to act as an irritant and might endanger the law and order situation.

5. In the result, this application is, allowed. The petitioner shall be released on bail on the following terms and conditions.

i) The petitioner shall execute a bond for Rs.50,000/- (Rupees Fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

ii) The petitioner shall not enter the jurisdiction of Chevayur Police Station, Kozhikode district for a period of two months from the date of his release except for the purpose of complying with the condition No.(iii) below;

iii) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m and 12 noon on all Mondays for a period of three months and thereafter as and when directed by the Investigating Officer in writing to do so.

(R.BASANT, JUDGE)

rtr/-